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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 MARCELL WILLIAMS,

Case No. 3:17-cv-00180-RCJ-WGC

10 Petitioner,

ORDER

11 v.

12 STATE OF NEVADA, et al.,

13 Respondents.

14 Petitioner Marcell Williams has submitted a *pro se* petition for writ of habeas
15 corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). Pursuant to this court's order, he
16 has now filed a completed application to proceed *in forma pauperis*, which shall be
17 granted (ECF No. 4). The court has reviewed the petition pursuant to Habeas Rule 4,
18 and it shall be docketed and served on respondents.

19 A petition for federal habeas corpus should include all claims for relief of which
20 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be
21 forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C.
22 §2254(b) (successive petitions). If petitioner is aware of any claim not included in his
23 petition, he should notify the court of that as soon as possible, perhaps by means of a
24 motion to amend his petition to add the claim.

25 **IT IS THEREFORE ORDERED** that the application to proceed *in forma pauperis*
26 (ECF No. 4) is **GRANTED**.

27 **IT IS FURTHER ORDERED** that the Clerk **shall file and ELECTRONICALLY**
28 **SERVE** the petition (ECF No. 1-1) on the respondents.

1 **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada
2 Attorney General, as counsel for respondents.

3 **IT IS FURTHER ORDERED** that respondents shall file a response to the petition,
4 including potentially by motion to dismiss, within **ninety (90) days** of service of the
5 petition, with any requests for relief by petitioner by motion otherwise being subject to
6 the normal briefing schedule under the local rules. Any response filed shall comply with
7 the remaining provisions below, which are entered pursuant to Habeas Rule 5.

8 **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents
9 in this case shall be raised together in a single consolidated motion to dismiss. In other
10 words, the court does not wish to address any procedural defenses raised herein either
11 *in seriatum* fashion in multiple successive motions to dismiss or embedded in the
12 answer. Procedural defenses omitted from such motion to dismiss will be subject to
13 potential waiver. Respondents shall not file a response in this case that consolidates
14 their procedural defenses, if any, with their response on the merits, except pursuant to
15 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If
16 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall
17 do so within the single motion to dismiss not in the answer; and (b) they shall
18 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set
19 forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no
20 procedural defenses, including exhaustion, shall be included with the merits in an
21 answer. All procedural defenses, including exhaustion, instead must be raised by
22 motion to dismiss.

23 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents
24 shall specifically cite to and address the applicable state court written decision and state
25 court record materials, if any, regarding each claim within the response as to that claim.

26 **IT IS FURTHER ORDERED** that petitioner shall have **forty-five (45) days** from
27 service of the answer, motion to dismiss, or other response to file a reply or opposition,
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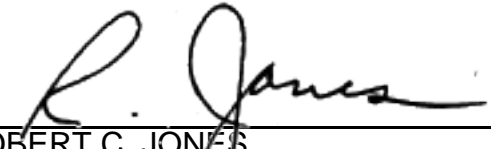
1 with any other requests for relief by respondents by motion otherwise being subject to
2 the normal briefing schedule under the local rules.

3 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed
4 herein by either petitioner or respondents shall be filed with a separate index of exhibits
5 identifying the exhibits by number. The CM/ECF attachments that are filed further shall
6 be identified by the number of the exhibit in the attachment.

7 **IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of all
8 exhibits in this case to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed
9 to the attention of "Staff Attorney" on the outside of the mailing address label.

10 Additionally, in the future, all parties shall provide courtesy copies of any additional
11 exhibits submitted to the court in this case, in the manner described above.

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13 DATED: June 14, 2017

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16 ROBERT C. JONES
17 UNITED STATES DISTRICT JUDGE
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